

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, KOLKATA
[Before Shri A. T. Varkey, JM & Shri Manish Borad, AM]**I.T.A. No. 610/Kol/2020**
Assessment Year: 2012-13

M/s. Monitor Suppliers Pvt. Ltd. (PAN: AAFCM3216N)	Vs.	Income-tax Officer, Ward-2(1), Kolkata
Appellant		Respondent

Date of Hearing	24.02.2022
Date of Pronouncement	28.02.2022
For the Appellant	Shri K. K. Goswami, Advocate
For the Respondent	Shri Biswanath Das, Addl. CIT

ORDER**Per Shri A. T. Varkey, JM:**

This is an appeal preferred by the assessee against the order of Ld. CIT(A)-17, Kolkata dated 23.07.2019 for AY 2012-13.

2. At the outset, it has been brought to our notice that the order of the Ld. CIT(A) is an ex parte order. According to the Ld. AR, the assessee never received any notice from the Ld. CIT(A) about the listing of this appeal before him. According to Ld. AR, the assessee came to know about the disposal of this appeal only in September, 2020 by chance when the Ld. AR of the assessee enquired about the status of the case. Therefore, there was delay of 440 days in filing of this appeal. According to Ld. AR by not pursuing the appeal against the action of Ld. CIT(A), the assessee does not get any benefit and on the other hand the assessee is saddled with heavy demand from AO. Therefore, the delay caused is not intentional but has happened due to non-receipt of any notice or even the impugned order. In order to buttress this submission, the assessee's director has filed an affidavit duly notarized before the Notary Public which is available in record dated 09.11.2020. Taking note of the Covid-19 pandemic and the facts noted (supra), we are of the opinion that there

is reasonable cause for delay being caused, so for the ends of justice, we are inclined to condone the delay and admit the appeal for hearing.

3. As noted the impugned order is an ex parte order and from the affidavit it is discernible that the assessee did not receive any notice or even the impugned order and only on enquiry in September 2020 it came to know about the disposal of this appeal. Since there is violation of Natural Justice and the right of the assessee to file an appeal being statutory in nature, it would be rendered meaningless if the assessee is not heard and the Ld. CIT(A) is not able to look into the material adduced by the assessee to substantiate its case. Therefore, the order of the Ld. CIT(A) is set aside and we restore the matter back to the file of the Ld. CIT(A) with a direction to adjudicate the appeal afresh after affording reasonable opportunity to the assessee.

4. In the result, the appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 28th February, 2022.

Sd/-

(Manish Borad)
Accountant Member

Sd/-

(Aby. T. Varkey)
Judicial Member

Dated : 28th February, 2022

JD(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – M/s. Monitor Suppliers Pvt. Ltd., C/o Agarwal Vishwanath & Associates, 133/1/1A, S. N. Banerjee Road, Pushkal Bhawan, 3rd floor, Kolkata-700 013.
2. Respondent – ITO, Ward-2(1), Kolkata
3. CIT(A)-17, Kolkata. (sent through e-mal)
4. PCIT , Kolkata
5. DR, ITAT, Kolkata. (sent through e-mal)

/True Copy,

By order,

Assistant Registrar